

1 HOUSE BILL 259

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Jim R. Trujillo

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10 AN ACT

11 RELATING TO TAXATION; EXPANDING THE TYPES OF RECEIPTS THAT MAY  
12 BE DEDUCTED FROM GROSS RECEIPTS FOR COMMERCIAL CONTRACT AND  
13 MEDICARE PART C SERVICES PROVIDED BY A PHYSICIAN, OSTEOPATHIC  
14 PHYSICIAN OR PODIATRIST; PROVIDING FOR DELAYED REPEAL.

15  
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. Section 7-9-93 NMSA 1978 (being Laws 2004,  
18 Chapter 116, Section 6, as amended) is amended to read:

19 "7-9-93. DEDUCTION--GROSS RECEIPTS--CERTAIN RECEIPTS FOR  
20 SERVICES PROVIDED BY HEALTH CARE PRACTITIONER.--

21 A. The purpose of the deductions for payments made  
22 to a health care practitioner by a managed care organization or  
23 health insurer for commercial contract services or medicare  
24 part C services and for deductibles paid by an insured or  
25 enrollee to a health care practitioner pursuant to the terms of

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1 the insured's health insurance plan or enrollee's managed care  
2 health plan is to retain health care practitioners currently  
3 providing commercial contract and medicare part C services in  
4 the state and to attract additional health care practitioners  
5 to provide commercial contract and medicare part C services in  
6 New Mexico.

7 ~~[A.]~~ B. Receipts from payments by a managed [~~health~~  
8 ~~care provider~~] care organization or health care insurer for  
9 commercial contract services or medicare part C services  
10 provided by a health care practitioner [~~that are not otherwise~~  
11 ~~deductible pursuant to another provision of the Gross Receipts~~  
12 ~~and Compensating Tax Act]~~ may be deducted from gross receipts  
13 [~~provided that the services are within the scope of practice of~~  
14 ~~the person providing the service. Receipts from fee-for-~~  
15 ~~service payments by a health care insurer may not be deducted~~  
16 ~~from gross receipts. The deduction provided by this section~~  
17 ~~shall be separately stated by the taxpayer].~~

18 C. Receipts from deductibles paid by an insured or  
19 enrollee to a physician licensed pursuant to the Medical  
20 Practice Act, an osteopathic physician licensed pursuant to the  
21 provisions of Chapter 61, Article 10 NMSA 1978 or a podiatrist  
22 licensed pursuant to the provisions of the Podiatry Act for  
23 commercial contract services pursuant to the terms of the  
24 insured's health insurance plan or the enrollee's managed care  
25 health plan may be deducted from gross receipts.

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1           ~~[B-]~~ D. For the purposes of this section:

2                   (1) "commercial contract services" means  
3 health care services performed by a health care practitioner at  
4 negotiated fee rates pursuant to a contract with a managed  
5 ~~[health care provider]~~ care organization or health care insurer  
6 other than those health care services provided ~~[for]~~ to  
7 medicare patients pursuant to Title 18 of the federal Social  
8 Security Act or ~~[for]~~ to medicaid patients pursuant to Title 19  
9 or Title 21 of the federal Social Security Act;

10                   (2) "deductible" means the amount of covered  
11 charges an insured or enrollee is required to pay in a plan  
12 year for commercial contract services before the insured's  
13 health insurance plan or enrollee's managed care health plan  
14 begins to pay for applicable covered charges;

15                   (3) "fee-for-service" means payment for health  
16 care services by a health care insurer for covered charges  
17 under an indemnity insurance plan;

18                   ~~[+2]~~ (4) "health care insurer" means a person  
19 that:

20                           (a) has a valid certificate of authority  
21 in good standing pursuant to the New Mexico Insurance Code to  
22 act as an insurer, health maintenance organization or nonprofit  
23 health care plan or prepaid dental plan; and

24                           (b) contracts to reimburse licensed  
25 health care practitioners for providing basic health services

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1 to insureds or enrollees at negotiated fee rates;

2 [~~3~~] (5) "health care practitioner" means:

3 (a) a chiropractic physician licensed  
4 pursuant to the provisions of the Chiropractic Physician  
5 Practice Act;

6 (b) a dentist or dental hygienist  
7 licensed pursuant to the Dental Health Care Act;

8 (c) a doctor of oriental medicine  
9 licensed pursuant to the provisions of the Acupuncture and  
10 Oriental Medicine Practice Act;

11 (d) an optometrist licensed pursuant to  
12 the provisions of the Optometry Act;

13 (e) an osteopathic physician licensed  
14 pursuant to the provisions of Chapter 61, Article 10 NMSA 1978  
15 or an osteopathic physician's assistant licensed pursuant to  
16 the provisions of the Osteopathic Physicians' Assistants Act;

17 (f) a physical therapist licensed  
18 pursuant to the provisions of the Physical Therapy Act;

19 (g) a physician or physician assistant  
20 licensed pursuant to the provisions of [~~Chapter 61, Article 6~~  
21 ~~NMSA 1978~~] the Medical Practice Act;

22 (h) a podiatrist licensed pursuant to  
23 the provisions of the Podiatry Act;

24 (i) a psychologist licensed pursuant to  
25 the provisions of the Professional Psychologist Act;

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1 (j) a registered lay midwife registered  
2 by the department of health;

3 (k) a registered nurse or licensed  
4 practical nurse licensed pursuant to the provisions of the  
5 Nursing Practice Act;

6 (l) a registered occupational therapist  
7 licensed pursuant to the provisions of the Occupational Therapy  
8 Act;

9 (m) a respiratory care practitioner  
10 licensed pursuant to the provisions of the Respiratory Care  
11 Act;

12 (n) a speech-language pathologist or  
13 audiologist licensed pursuant to the Speech-Language Pathology,  
14 Audiology and Hearing Aid Dispensing Practices Act;

15 (o) a professional clinical mental  
16 health counselor, marriage and family therapist or professional  
17 art therapist licensed pursuant to the provisions of the  
18 Counseling and Therapy Practice Act who has obtained a master's  
19 degree or a doctorate;

20 (p) an independent social worker  
21 licensed pursuant to the provisions of the Social Work Practice  
22 Act; and

23 (q) a clinical laboratory that is  
24 accredited pursuant to 42 U.S.C. Section 263a but that is not a  
25 laboratory in a physician's office or in a hospital defined

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1 pursuant to 42 U.S.C. Section 1395x;

2 [~~(4) "managed health care provider"~~] (6)

3 "managed care organization" means a person that provides for  
4 the delivery of comprehensive basic health care services and  
5 medically necessary services to individuals enrolled in a plan  
6 through its own employed health care providers or by  
7 contracting with selected or participating health care  
8 providers. "Managed [~~health care provider~~] care organization"  
9 includes only those persons that provide comprehensive basic  
10 health care services to enrollees on a contract basis,  
11 including the following:

- 12 (a) health maintenance organizations;
- 13 (b) preferred provider organizations;
- 14 (c) individual practice associations;
- 15 (d) competitive medical plans;
- 16 (e) exclusive provider organizations;
- 17 (f) integrated delivery systems;
- 18 (g) independent physician-provider  
19 organizations;
- 20 (h) physician hospital-provider  
21 organizations; and
- 22 (i) managed care services organizations;

23 [~~and~~]

24 (7) "managed care health plan" means a health  
25 care plan offered by a managed care organization that provides

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1 for the delivery of comprehensive basic health care services  
2 and medically necessary services to individuals enrolled in the  
3 plan other than those services provided to medicare patients  
4 pursuant to Title 18 of the federal Social Security Act or to  
5 medicaid patients pursuant to Title 19 or Title 21 of the  
6 federal Social Security Act; and

7 [~~(5)~~] (8) "medicare part C services" means  
8 services performed pursuant to a contract with a managed  
9 [~~health care provider~~] care organization for medicare patients  
10 pursuant to Title 18 of the federal Social Security Act.

11 E. The economic development department shall:

12 (1) request the New Mexico center for health  
13 workforce analysis to collect data to be used to assess the  
14 effectiveness of the deductions authorized by this section in  
15 the retention and recruitment of health care practitioners who  
16 provide commercial contract services and medicare part C  
17 services; and

18 (2) report to the interim legislative revenue  
19 stabilization and tax policy committee and to the legislative  
20 finance committee by November of each year on the effectiveness  
21 of the deductions authorized by this section in the retention  
22 and recruitment of health care practitioners who provide  
23 commercial contract services and medicare part C services.

24 F. Receipts from fee-for-service payments by a  
25 health care insurer shall not be deducted from gross receipts

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1 pursuant to this section."

2 SECTION 2. DELAYED REPEAL.--Section 7-9-93 NMSA 1978  
3 (being Laws 2004, Chapter 116, Section 6, as amended by Section  
4 1 of this act) is repealed effective January 1, 2021.

5 SECTION 3. EFFECTIVE DATE.--The effective date of the  
6 provisions of this act is July 1, 2015.

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